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10 Attorneys for Defendants
 11 BAC HOME LOANS SERVICING, LP, as successor by merger to HOME LOAN
 12 SERVICES, INC. (erroneously sued as "Home Loan Services, Inc."); FIRST FRANKLIN
 13 FINANCIAL CORPORATION (erroneously sued as "First Franklin Financial Corp."); U.S.
 14 BANK, N.A., AS SUCCESSOR TRUSTEE TO BANK OF AMERICA, NA, AS SUCCESSOR
 15 BY MERGER TO LASALLE BANK, NA, AS TRUSTEE TO MERRILL LYNCH FIRST
 16 FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED
 17 CERTIFICATE SERIES 2007-2 (erroneously sued as "U.S. Bank, N.A."); AND BANK OF
 18 AMERICA, N.A., AS SUCCESSOR BY MERGER TO MERRILL LYNCH BANK &
 19 TRUST CO., FSB (ERRONEOUSLY SUED AS "Bank of America, N.A.")

20 UNITED STATES DISTRICT COURT
 21 SOUTHERN DISTRICT OF CALIFORNIA

22 MICHAEL SENECA,
 23
 24 Plaintiff,

25 v.

26 FIRST FRANKLIN FINANCIAL CORP.; U.S.
 27 BANK, N.A; BANK OF AMERICA NA;
 28 HOME LOAN SERVICES INC; MARK
 MOORE; LANCE NOWAK; OCEAN
 MORTGAGE & REALTY; Does 1-20

Defendants.

Case No. '10CV2329 L WVG

NOTICE OF REMOVAL OF ACTION
 UNDER 28 U.S.C. § 1441(b)

[FEDERAL QUESTION]

[JURY TRIAL DEMANDED]

State Court Case No.: 37-2010-00102058-
 CU-PN-CTL

TO THE CLERK OF THE COURT AND TO ALL PARTIES AND THEIR
 ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants HOME LOAN SERVICES, INC. ("HLS"),
 FIRST FRANKLIN FINANCIAL CORPORATION (erroneously sued as "First Franklin Financial
 Corp.") ("FFFC"), U.S. BANK, N.A., AS SUCCESSOR TRUSTEE TO BANK OF AMERICA,

NA, AS SUCCESSOR BY MERGER TO LASALLE BANK, NA, AS TRUSTEE TO MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATE SERIES 2007-2 (erroneously sued as “U.S. Bank, N.A.”) (“U.S. Bank”), and BANK OF AMERICA, N.A., AS SUCCESSOR BY MERGER TO MERRILL LYNCH BANK & TRUST CO., FSB (erroneously sued as “Bank of America, N.A.”) (“BofA”) by and through their attorneys, Wolfe & Wyman LLP, hereby submit this Petition for Removal as follows:

1. HLS is a Defendant in the above-entitled action, commenced in the San Diego County Superior Court and now pending in that Court. Upon information and belief, the Summons and Complaint has not yet been served upon HLS.

2. FFFC is a Defendant in the above-entitled action, commenced in the San Diego County Superior Court and now pending in that Court. Upon information and belief, the Summons and Complaint has not yet been served upon FFFC.

3. U.S. Bank is a Defendant in the above-entitled action, commenced in the San Diego County Superior Court and now pending in that Court. Upon information and belief, the Summons and Complaint has not yet been served upon U.S. Bank.

4. BofA is a Defendant in the above-entitled action, commenced in the San Diego County Superior Court and now pending in that Court. Upon information and belief, the Summons and Complaint has not yet been served upon BofA.

5. Upon information and belief, this matter was commenced when Plaintiff filed a Complaint in the San Diego County Superior Court on October 12, 2010. A true and correct copy of Plaintiff’s original Complaint is attached hereto and incorporated herein as **Exhibit 1**. This notice of removal is timely under 28 U.S.C. § 1446(b) because it was filed by November 10, 2010, within 30 days of when HLS, FFFC, U.S. Bank, and BofA were first put on notice of the removable claims in the underlying state court lawsuit. Upon information and belief, no defendant has yet been served with a copy of the Summons and Complaint.

6. It appears from Plaintiffs’ Complaint, that this civil action arises under the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605 and 15 U.S.C. §§ 1640-1641, and under the

1 Truth in Lending Act, 15 U.S.C. § 1635, Regulation Z, 12 C.F.R. § 226.23, and 15 U.S.C. 1640,
 2 and as such, HLS, FFFC, U.S. Bank, and BofA may remove this action under Federal Question
 3 Jurisdiction.

4 7. Supplemental jurisdiction of any state law is proper under 28 U.S.C. § 1367(a).

5 8. Upon information and belief, there are no named co-defendants which have been
 6 properly served who are not appearing in this notice of removal.

7 9. Based on the above-referenced allegations, pursuant to 28 U.S.C. §1441, *et seq.*,
 8 HLS, FFFC, U.S. Bank, and BofA are entitled to remove this entire action from the San Diego
 9 County Superior Court, to the United States District Court, Southern District of California, and
 10 HLS, FFFC, U.S. Bank, and BofA wish to exercise that right.

11 10. Pursuant to 28 U.S.C. § 1446(a), HLS, FFFC, U.S. Bank, and BofA hereby attach as
 12 **Exhibit 2** true and correct copies of all pleadings filed with the state court.

13 11. Pursuant to 28 U.S.C. § 1446(d), counsel for HLS, FFFC, U.S. Bank, and BofA will
 14 promptly give written notice of the removal to all adverse parties and will file a copy of the notice
 15 with the Clerk of the San Diego County Superior Court.

16 12. HLS, FFFC, U.S. Bank, and BofA reserve the right to supplement this Notice of
 17 Removal when additional information becomes available. HLS, FFFC, U.S. Bank, and BofA

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1 further reserve all rights, including, but not limited to, defenses and objections as to venue,
 2 personal jurisdiction, and service. The filing of this Notice of Removal is subject to, and without
 3 waiver of, any such defense or objection.

4 DATED: November 10, 2010

WOLFE & WYMAN LLP

6 By: 

STUART B. WOLFE
 KELLY ANDREW BEALL
 JENNIFER J. MAAS

Attorneys for Defendants

**BAC HOME LOANS SERVICING, LP, as
 successor by merger to HOME LOAN SERVICES,
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 LYNCH BANK & TRUST CO., FSB
 (ERRONEOUSLY SUED AS "Bank of America,
 N.A.")**

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
 COUNTY OF ORANGE)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 5 Park Plaza, Suite 1100, Irvine, California 92614-5979.

On November 10, 2010, I served the document(s) described as **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(b)** on all interested parties in said action by placing a true copy thereof in a sealed envelope addressed as stated on the ATTACHED SERVICE LIST.

☒ **BY MAIL:** as follows:

☐ **STATE** - I am "readily familiar" with Wolfe & Wyman LLP's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

☒ **FEDERAL** - I deposited such envelope in the U.S. Mail at Irvine, California, with postage thereon fully prepaid.

☒ **BY ELECTRONIC ACCESS** Pursuant to Electronic Filing Court Order, I hereby certify that the above document(s) was uploaded to the Southern District Court website and will be posted on the website by the close of the next business day and the webmaster will give e-mail notification to all parties.

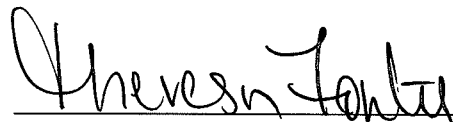
☐ **BY OVERNIGHT COURIER SERVICE** as follows: I caused such envelope to be delivered by overnight courier service to the offices of the addressee. The envelope was deposited in or with a facility regularly maintained by the overnight courier service with delivery fees paid or provided for.

☐ **BY FACSIMILE** as follows: I caused such documents to be transmitted to the telephone number of the addressee listed on the attached service list, by use of facsimile machine telephone number. The facsimile machine used complied with California Rules of Court, Rule 2004 and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), a transmission record of the transmission was printed.

☐ **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ **FEDERAL** I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made.

Executed on November 10, 2010, at Irvine, California.


 Theresa Fontes

SERVICE LIST
United States District Court – Southern Division – Case No.
Seneca v. First Franklin, et al.
W&W File No. 1420-395
[Revised:11/9/10]

Michael Seneca
1845 David Street
San Diego, CA 92111

In Pro Per

619-318-1617
858-278-3296 FAX

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